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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Frank LUYTEN et al. Confirmation No.: 5817
Serial No.: 10/089,994 Art Unit: 1632
Filed: July 2, 2002 Examiner: Thaian N. Ton
Customer No.: 21559
Title: ISOLATION OF PRECURSOR CELLS AND THEIR USE FOR TISSUE REPAIR

DECLARATION UNDER 37 C.F.R. § 1.132 OF DR. FRANK LUYTENCONSIDERED
9.3.07
tnt

1. I am a named inventor on the above-referenced patent application.
2. I am a Professor at the University of Leuven. I have over 20 years of experience in the field of Rheumatology. A copy of my curriculum vitae is attached.
3. I have read and understand the Final Office Action mailed December 15, 2006. In particular, I understand that the Examiner has questioned whether the evaluation of cartilage production in nude mice is a reliable model for a therapeutic effect. The Examiner has indicated that the working examples show in vivo implantation of the cells by intramuscular injection of the cells into nude mice, which, the Examiner has indicated is not considered analogous to what could be considered a therapeutic treatment. The Examiner has indicated that the examples fail "to correlate to a therapeutic result in utilizing the claimed cells" (see, Final Office Action, page 8, second paragraph).
4. In the invention described in the application under consideration, it is demonstrated that, based on the correlation with cartilage production upon injection into nude mice, markers can be identified, which are representative of the ability of the cells to produce stable hyaline cartilage when injected *in vivo*. It was found that the ability of cells to produce stable hyaline cartilage when injected *in*